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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91202079
Party	Defendant Chun-Leon Chen
Correspondence Address	MORTON J ROSENBERG ROSENBERG KLEIN & LEE 3458 ELLICOTT CENTER DRIVE, SUITE 101 ELLICOTT CITY, MD 21043-4178 UNITED STATES RKL@RKLPATLAW.COM
Submission	Answer
Filer's Name	MORTON J. ROSENBERG
Filer's e-mail	RKL@RKLPATLAW.COM
Signature	/MORTON J. ROSENBERG/
Date	11/16/2011
Attachments	3803-46-OPP-ANSWER-ASFILED-NOV16-2011.pdf (31 pages)(389325 bytes)

UNITED STATES PATENT AND TRADEMARK OFFICE
TRADEMARK TRIAL AND APPEAL BOARD

SOLVAY S.A.,	:	Opposition No. 91202079
Opposer	:	
	:	Serial No. 85/143,738
Chun-Leon Chen	:	
Applicant	:	

APPLICANT'S ANSWER TO NOTICE OF OPPOSITION

Applicant, Chun-Leon Chen, by the undersigned Attorney, hereby answers each of the allegations filed in the Notice of Opposition made by Opposer.

- (1) Applicant is without knowledge or information to form a belief as to the allegations of the Opposer in Paragraph 1 of the Notice of Opposition and therefore denies same.
- (2) Applicant is without knowledge or information to form a belief as to the allegations of the Opposer in Paragraph 2 of the Notice of Opposition and therefore denies same.
- (3) Applicant admits in part and denies in part the Allegations made in Paragraph 3 of the Notice of Opposition. Applicant admits that a search of the website of the United States Patent and Trademark Office lists Registration Number 3,550,404 as being issued to SOLVAY S.A. on December 23, 2008 with a priority date of April 3, 2007. However,

Applicant is without knowledge or information as to the current state of ownership of this Registration and therefore denies same.

- (4) Applicant admits in part and denies in part the allegations made in Paragraph 4 of the Notice of Opposition. Applicant has filed Applicant's "Intent to Use" Trademark Application Serial Number 85/143,738 at the USPTO which is a constructive use of Applicant's mark.
- (5) Applicant admits in part and denies in part the allegations made in Paragraph 5 of the Notice of Opposition. Applicant has filed Applicant's "Intent to Use" Trademark Application Serial Number 85/143,738 at the USPTO which is a constructive use of Applicant's mark.
- (6) Applicant admits the allegations made in Paragraph 6 of the Notice of Opposition.
- (7) Applicant admits the allegations made in Paragraph 7 of the Notice of Opposition.
- (8) Applicant is without knowledge or information to form a belief as to the use of Opposer's mark as made in Opposer's allegations in Paragraph 8 of the Notice of Opposition and therefore denies same.
- (9) Applicant admits the allegations made in Paragraph 9 of the Notice of Opposition.
- (10) Applicant denies the allegations made in Paragraph 10 of the Notice of Opposition.

- (11) Applicant denies the allegations made in Paragraph 11 of the Notice of Opposition.
- (12) Applicant is unable to answer the allegations made by Opposer in Paragraph 12 of the Notice of Opposition since such is based upon speculation as to future formation of Applicant's goods, some of which are not yet defined and thus denies the allegations made in Paragraph 12 of the Notice of Opposition.
- (13) Applicant denies the allegations made in Paragraph 13 of the Notice of Opposition.
- (14) Applicant denies the allegations made in Paragraph 14 of the Notice of Opposition.
- (15) Applicant denies the Allegations made in Paragraph 15 of the Notice of Opposition.

FURTHER DEFENSES

- (16) Applicant, in the following paragraphs, provides the TTAB some defenses which respond to Opposer's allegations made in the Notice of Opposition. Applicant reserves the right to develop further defenses during the discovery phase of the Opposition.
- (17) Applicant filed the subject Trademark Application, Serial Number 85/143,738, at the United States Patent and Trademark Office on 2 October 2010. The subject Trademark Application has been fully prosecuted at the United States Patent and Trademark Office with the only substantive amendment being made to change the identification of goods and services to specify the common commercial name of the goods and services in International Class 010. In an Office Action of 27 April 2011, the Trademark Examining Attorney indicated that she had searched the office records and had found no similar registered or pending mark which would bar registration under Trademark Act § 2(d). Thus, the subject Trademark Application, after having been searched by the Trademark Examining Attorney, was found to be suitable for registration and not confusingly similar to any registered or pending mark at that time.
- (18) Opposer's mark "EVIVA" consists of a single word and includes no stylization or design elements.

- (19) In contradistinction, Applicant's mark, "RE-VIVE", makes use of a hyphenated word to visually attract potential purchasers.
- (20) The basic rule is that marks must be compared in their entireties and not dissected, wherein articulating reasons for reaching a conclusion on the issue of confusion, there may be nothing improper in stating that more or less weight has been given to a particular feature of the mark, however, the ultimate conclusion must rest on the consideration of the marks in their entireties. See *In re National Data Corp.*, 753 F.2d 1056 (Fed. Cir. 1985). It appears that the Opposer is improperly dissecting the Applicant's mark and comparing only a fraction of the letters which make up Applicant's mark with the cited registration.
- (21) Further, in making a comparison of the degrees of identity between the marks at issue, the marks are to be compared with respect to similarity of pronunciation, appearance and verbal translation; i.e., the "sight, sound and meaning trilogy". J.T. McCarthy, *McCarthy on Trademarks and Unfair Competition*, § 23: 21(4th Edition 1996). See also *MarCon, Ltd. v. Avon, Inc.*, 4 USPQ.2d 1474, 1476 (TTAB 1987) ("[I]t is well settled that a mark should not be dissected, but must be considered as a whole in determining likelihood of confusion."). Further, see also *Packard Press, Inc. v. Hewlett-Packard Co.*, 56 USPQ.2d 1351, 1354 (Fed. Cir. 2000) ("The

ultimate conclusion of similarity or dissimilarity of the marks must rest on consideration of the marks in their entirety.”)

(22) With respect to the “sight” portion of the sight, sound and meaning trilogy, Applicant’s mark is visually displaced from the Opposer’s mark. Applicant’s mark visually gives the initial appears of a common English word “revive,” whereas the Opposer’s mark “EVIVA” makes no such visual impression but rather is believed by the Applicant to be a set of letters which are fanciful and have no meaning. Thus, the visual impression of Opposer’s mark and Applicant’s mark are completely different in appearance and thus, there can be no conclusion that the marks may be confusingly similar.

(23) With respect to the “sound” portion of the sight, sound and meaning trilogy, Applicant’s mark “RE-VIVE” has a completely different sound as opposed to Opposer’s mark “EVIVA.” In fact, Opposer’s mark is not a phonetic equivalent of Applicant’s mark nor is the pronunciation similar. Applicant’s mark “RE-VIVE” when viewed by any third party gives the immediate impression of the word “revive” which is common word used in the English language. Opposingly, Opposer’s mark “EVIVA” is pronounced with a completely different sound than the word “revive.” Further, the hyphenated spelling of the word “RE-VIVE” in Applicant’s mark further distinguishes Applicant’s mark from Opposer’s mark. The

hyphen in Applicant's mark provides for a distinctive feature of Applicant's mark which signals consumers to pause when sounding out the mark and such is not seen in the Opposer's fanciful mark "EVIVA."

- (24) Furthermore, contrary to Opposer's arbitrary or fanciful mark, "EVIVA", Applicant's mark is a unique presentation of the term "REVIVE" for which there is a well-established meaning: to return to consciousness or life, or to restore from a depressed, inactive, or unused state. See *Merriam-Webster online dictionary*.
- (25) Additionally, the common portion of the marks at issue, namely, "EVIV" is inherently weak and Applicant's use will not give rise to any likelihood of confusion. Where common elements of conflicting marks may be a word or letters that are weak, this fact reduces the likelihood of confusion. See *Smith v. Tobacco Byproducts & Chemical Corp.*, 243 F.2d 188 (CCPA 1957).
- (26) A portion of a mark or an entire mark may be weak when such portion or full mark is either descriptive, highly suggestive or is commonly used by many other sellers in the marketplace. The letters "EVIV", and variations thereof, are used by a number of Registrants in the marketplace and, thus, it is believed that the letters in combination are only entitled to a narrow scope of protection.

(27) The letters “EVIV” and variations thereof are commonly used as portions of marks by many other sellers in the marketplace. This is evidenced by a number of third party marks registered on the Principal Register which include the letters “EVIV” and variations thereof. The undersigned Attorney, after making a brief search of the office records of the U.S. Patent and Trademark Office, has found a number of marks for the letters “EVIV” and variations thereof which have been registered by the USPTO in International Classes 001, 010 and 017. A representative sampling of the marks found are as follows (copies enclosed):

EXHIBIT	MARK	REGISTRATION NUMBER	GOODS/ SERVICES
A	EVIVA	3,745,130	Medical and surgical instruments for performing breast biopsies.
B	REVIVE	3,990,005	Hernia mesh.
C	REVIVE	3,826,043	Hearing aids.
D	OMNILUX REVIVE	2,947,645	Surgical and medical apparatus and instruments, namely, LED light source lamps, infrared lamps, ultraviolet lamps, sun lamps for medical and surgical use.
E	BACK REVIVER	2,299,456	Electric and battery powered body massagers.
F	REVIVE	1,439,070	Male sexual aid device consisting of latex rings, sleeve and applicator.

G	REVIVE-A-PET	3,833,883	Pet reviving kits comprising a resuscitator, animal mask, oxygen supply tubing, physiological parameter list and carry case.
H	REVIVER & Design	2,952,534	Automated external defibrillator.
I	REVIVER VIEW & Design	3,755,989	Defibrillator.
J	TOUCH SLEEP REVIVE	3,554,070	Massage apparatus.
K	REVIVE & THRIVE	4,004,274	Compost.
L	QUANTUM-REVIVE	3,823,070	Consortium of naturally occurring beneficial bacteria that can be applied to seeds, plants, or soil, etc.
M	REVIVE	3,523,745	Chemical preparations for the treatment of oil an gas wells, namely, paraffin treatment fluid, etc.
N	REVIVE!	3,408,636	Water purification compound for pools, fountains and spas.
O	GREEN REVIVAL	3,195,319	Lawn fertilizers.
P	REVIVED RUBBER & Design	2,363,951	Devulcanized rubber particles made from recycled rubber scrap used in the manufacturing of various rubber products, etc.
Q	REVIVEX	2,274,938	Waterproofing chemical compositions for articles of fabric and leather.
R	REVIVE	1,982,538	Bacterial growth medium.
S	REVIVE	1,099,098	Soil additives, namely organic soil builder.

(28) The concurrent Registration of marks containing the letters “EVIV” and variations thereof, establishes that the Trademark Office recognizes that such a set of letters is entitled to a relatively narrow scope of protection and that the person who purchases such goods can readily distinguish between the marks containing such terms without any confusion.

(29) Opposer’s Registration is related to goods including medical implants made of plastic.

- (30) In contradistinction, Applicant's goods are directed to various dental instruments, kits, and tools.
- (31) The "related goods or services" rule is a well established principal of modern Trademark Law and Practice. See J.T. McCarthy, *McCarthy on Trademarks and Unfair Competition*, § 24: 6 (4th Edition 1996). A Trademark owner is given protection against use of its mark on any product or service which would reasonably be thought by the buying public to come from the same source, or is thought to be affiliated with, connected with, or sponsored by, the Trademark owner. When comparing applicant's mark with Opposer's Registrations, there is absolutely no foundation for suggesting that the buying public would confuse a manufacturer and seller of medical implants made of plastic with a manufacturer and seller of dental instruments, kits and tools to be utilized in conjunction with specific dental procedures. Thus, no likelihood of confusion exists, based upon the vast difference of the goods of Opposer's Registrations and the Applicant's Application.
- (32) Courts have elevated the reasonably prudent ordinary-buyer standard to a higher, more discriminating level based on unsupported assumptions about the nature of certain buyers. See *First National Bank v. First National Bank, South Dakota*, 153 F.3d 885, 47 USPQ.2d 1847 (8th Cir. 1998).

(33) For potential purchasers of Applicant's goods, it is believed that, at least, this greater standard certainly applies. A purchaser of dental instruments, kits and tools is generally a highly educated and technical specialist who would know in advance the goods to be purchased. These are highly specialized items and purchasers of Applicant's specialized goods are not generally casual shoppers, but rather are purchasing the goods for a specialized purpose. More than likely, these purchasers are dentists and dental technicians who are integrally familiar with the types of goods and equipment necessary to perform particular dental procedures. Thus, it is believed that the sophistication and knowledge of purchasers of Applicant's goods and services would readily be able to distinguish between Applicant's dental tools and equipment and the plastic medical implant products related to Opposer's Registrations. It does beyond the concept of naiveté or imagination to believe that a dentist or dental technician would confuse medical implants with dental tools. Thus, there is no possibility that any likelihood of confusion could possible exit.

WHEREFORE, having made full answer to the Notice of Opposition,
Applicant prays that the Opposition be dismissed.

By: Morton J. Rosenberg
Morton J. Rosenberg
Registration #26,049
ROSENBERG, KLEIN & LEE
3458 Ellicott Center Drive
Suite 101
Ellicott Center, MD 21043

Attorney for Applicant
Chun-Leon Chen

Dated: 11/16/2011

CERTIFICATE OF SERVICE

The undersigned Attorney hereby certifies that a copy of the foregoing
Applicant's Answer to Notice of Opposition was served on the Opposer by
mailing a true copy thereof by first class mail, postage prepaid to: Mark B.
Harrison, Esquire, Venable LLP, P.O. Box 34385, Washington, DC 20043-9998
on this 16TH day of November 2011.

Morton J. Rosenberg
Morton J. Rosenberg, Esquire

United States of America

United States Patent and Trademark Office

EVIVA

Reg. No. 3,745,130 HOLOGIC, INC. (DELAWARE CORPORATION)
Registered Feb. 2, 2010 35 CROSBY DRIVE
BEDFORD, MA 01730

Int. Cl.: 10 FOR: MEDICAL AND SURGICAL INSTRUMENTS FOR PERFORMING BREAST BIOPSIES,
IN CLASS 10 (U.S. CLS. 26, 39 AND 44).

TRADEMARK FIRST USE 12-1-2008; IN COMMERCE 12-1-2008.
PRINCIPAL REGISTER

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

THE WORDING "EVIVA" HAS NO MEANING IN A FOREIGN LANGUAGE

SN 77-413,673, FILED 3-5-2008.

LINDA E. BLOHM, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

EXHIBIT A

United States of America

United States Patent and Trademark Office

REVIVE

Reg. No. 3,990,005

Registered July 5, 2011

Int. Cl.: 10

TRADEMARK

PRINCIPAL REGISTER

BIOMERIX CORPORATION (DELAWARE CORPORATION)
47757 FREMONT BLVD.
FREMONT, CA 94538

FOR: HERNIA MESH, IN CLASS 10 (U.S. CLS. 26, 39 AND 44).

FIRST USE 2-24-2009; IN COMMERCE 2-24-2009.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SER. NO. 85-192,897, FILED 12-8-2010.

JILL C. ALT, EXAMINING ATTORNEY



David J. Kybas

Director of the United States Patent and Trademark Office

EXHIBIT B

United States of America

United States Patent and Trademark Office

REVIVE

Reg. No. 3,826,043

Registered July 27, 2010

Int. Cls.: 10 and 35

TRADEMARK

SERVICE MARK

PRINCIPAL REGISTER

WIDEX HEARING AID CO., INC. (NEW YORK CORPORATION)
35-53 24TH STREET
LONG ISLAND CITY, NY 11106

FOR: HEARING AIDS, IN CLASS 10 (U.S. CLS. 26, 39 AND 44).

FIRST USE 7-20-2009; IN COMMERCE 7-20-2009.

FOR: RETAIL STORES FEATURING HEARING AIDS AND HEARING-RELATED PRODUCTS,
IN CLASS 35 (U.S. CLS. 100, 101 AND 102).

FIRST USE 7-20-2009; IN COMMERCE 7-20-2009.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SN 77-696,924, FILED 3-23-2009.

MARY BOAGNI, EXAMINING ATTORNEY



David S. Kypas

Director of the United States Patent and Trademark Office

Int. Cls.: 10, 11 and 44

Prior U.S. Cls.: 13, 21, 23, 26, 31, 34, 39, 44, 100 and 101

United States Patent and Trademark Office

Reg. No. 2,947,645

Registered May 10, 2005

**TRADEMARK
SERVICE MARK
PRINCIPAL REGISTER**

OMNILUX REVIVE

PHOTO THERAPEUTICS LTD. (UNITED KING-
DOM COMPANY)
STATION BUSINESS CENTRE
STATION HOUSE STAMFORD NEW ROAD
ALTRINCHAM, CHESHIRE, UNITED KINGDOM
WA14 1EP

FOR: SURGICAL AND MEDICAL APPARATUS
AND INSTRUMENTS, NAMELY, LED LIGHT
SOURCE LAMPS, INFRARED LAMPS, ULTRAVIO-
LET LAMPS, SUN LAMPS FOR MEDICAL AND
SURGICAL USE; SURGICAL AND MEDICAL AP-
PARATUS AND INSTRUMENTS FOR USE IN COS-
METIC SURGERY, NAMELY LED LIGHT SOURCE
LAMPS, INFRARED, ULTRAVIOLET AND SUN
LAMPS; APPARATUS, INSTRUMENTS AND DEVI-
CES USED IN PHOTODYNAMIC THERAPY, NAME-
LY, LED LIGHT SOURCE LAMPS, INFRARED
LAMPS, ULTRAVIOLET LAMPS, SUN LAMPS
USED IN OPTICAL FILTERS AND SCREENS FOR
MEDICAL AND SURGICAL PURPOSES, IN CLASS
10 (U.S. CLS. 26, 39 AND 44).

FOR: LED LIGHT SOURCE LAMPS, INFRARED
LAMPS, ULTRAVIOLET LAMPS, AND SUN LAMPS

FOR COSMETIC USE, IN CLASS 11 (U.S. CLS. 13, 21,
23, 31 AND 34).

FOR: MEDICAL CARE SERVICES; NAMELY,
CONSULTATION, TREATMENT, COUNSELING
AND AFTERCARE PROVIDED FOR PATIENTS;
MEDICAL CLINICAL SERVICES; COSMETIC
TREATMENT SERVICES, NAMELY, CONSULTA-
TION, TREATMENT, COUNSELING AND AFTER-
CARE PROVIDED FOR PATIENTS; PROVIDING
MEDICAL AND SURGICAL INFORMATION AND
CONSULTING SERVICES IN THE FIELD OF COS-
METIC TREATMENTS AND PHOTODYNAMIC
THERAPY; LEASING OF COSMETIC APPARATUS,
INSTRUMENTS AND DEVICES, NAMELY LED
LIGHT SOURCE LAMPS, INFRARED, ULTRAVIO-
LET AND SUN LAMPS, OPTICAL FILTERS AND
SCREENS, IN CLASS 44 (U.S. CLS. 100 AND 101).

OWNER OF UNITED KINGDOM REG. NO.
2301404, DATED 6-20-2003, EXPIRES 5-24-2012.

SER. NO. 78-186,241, FILED 11-18-2002.

KELLY BOULTON, EXAMINING ATTORNEY

Int. Cl.: 10

Prior U.S. Cls.: 26, 39 and 44

Reg. No. 2,299,456

United States Patent and Trademark Office

Registered Dec. 14, 1999

**TRADEMARK
PRINCIPAL REGISTER**

BACK REVIVER

HELEN OF TROY TEXAS CORPORATION
(TEXAS CORPORATION)
6827 MARKET AVENUE
EL PASO, TX 79915

FIRST USE 7-0-1998; IN COMMERCE
7-0-1998.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "BACK", APART FROM THE
MARK AS SHOWN.

FOR: ELECTRIC AND BATTERY POWERED
BODY MASSAGERS, IN CLASS 10 (U.S. CLS. 26,
39 AND 44).

SER. NO. 75-450,792, FILED 3-16-1998.

FRED MANDIR, EXAMINING ATTORNEY

Int. Cl.: 10

Prior U.S. Cl.: 44

United States Patent and Trademark Office

Reg. No. 1,439,070

Registered May 12, 1987

**TRADEMARK
PRINCIPAL REGISTER**

REVIVE

REVIVE SYSTEM CORP. (DELAWARE CORPORATION)
156 BROAD STREET
LAKE GENEVA, WI

FIRST USE 7-15-1986; IN COMMERCE
7-15-1986.

SER. NO. 615,482, FILED 8-13-1986.

FOR: MALE SEXUAL AID DEVICE CONSISTING OF LATEX RINGS, SLEEVE AND APPLICATOR, IN CLASS 10 (U.S. CL. 44).

MICHAEL HAMILTON, EXAMINING ATTORNEY

United States of America

United States Patent and Trademark Office

REVIVE-A-PET

Reg. No. 3,833,883

Registered Aug. 17, 2010

Int. Cl.: 10

TRADEMARK

PRINCIPAL REGISTER

MIDMARK CORPORATION (OHIO CORPORATION)
60 VISTA DRIVE
VERSAILLES, OH 45380

FOR: PET REVIVING KITS COMPRISING A RESUSCITATOR, ANIMAL MASK, OXYGEN SUPPLY TUBING, PHYSIOLOGICAL PARAMETER LIST AND CARRY CASE, IN CLASS 10 (U.S. CLS. 26, 39 AND 44).

FIRST USE 0-0-2004; IN COMMERCE 0-0-2004.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

SEC. 2(F).

SER. NO. 77-806,984, FILED 8-18-2009.

JESSICA FATHY, EXAMINING ATTORNEY



David S. Kappas

Director of the United States Patent and Trademark Office

EXHIBIT G

Int. Cl.: 10

Prior U.S. Cls.: 26, 39, and 44

United States Patent and Trademark Office

Reg. No. 2,952,534

Registered May 17, 2005

TRADEMARK
PRINCIPAL REGISTER



CINTAS FIRST AID HOLDINGS CORP. (NEVADA CORPORATION)
250 VISTA BOULEVARD #107
SPARKS, NV 89434

FOR: AUTOMATED EXTERNAL DEFIBRILLATOR, IN CLASS 10 (U.S. CLS. 26, 39 AND 44).

FIRST USE 11-1-2002; IN COMMERCE 11-1-2002.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE REVIVER AED, APART FROM THE MARK AS SHOWN.

SN 76-486,225, FILED 1-30-2003.

ALEXANDER L. POWERS, EXAMINING ATTORNEY

United States of America

United States Patent and Trademark Office

Reviver  **VIEW**

Reg. No. 3,755,989 CINTAS HOLDINGS LLC (OHIO LIMITED LIABILITY COMPANY)
Registered Mar. 2, 2010 6800 CINTAS BOULEVARD
MASON, OH 45040

Int. Cl.: 10 FOR: DEFIBRILLATOR, IN CLASS 10 (U.S. CLS. 26, 39 AND 44).

TRADEMARK FIRST USE 10-26-2009; IN COMMERCE 10-26-2009.
PRINCIPAL REGISTER OWNER OF U.S. REG. NO. 2,952,534.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "REVIVER AED", APART FROM THE MARK AS SHOWN.

THE MARK CONSISTS OF THE WORD "REVIVER" WITH THE OUTLINE OF A HEART AROUND THE LETTERS "VIV" NEXT TO THE WORD "VIEW" IN A RECTANGLE SET ABOVE THE LETTER "AED".

SN 77-682,526, FILED 3-3-2009.

KRISTIN CARLSON, EXAMINING ATTORNEY



David J. Kybas

Director of the United States Patent and Trademark Office

Int. Cls.: 10, 20, 24 and 25

Prior U.S. Cls.: 2, 13, 22, 25, 26, 32, 39, 42, 44 and 50

United States Patent and Trademark Office

Reg. No. 3,554,070

Registered Dec. 30, 2008

**TRADEMARK
PRINCIPAL REGISTER**

touch sleep revive

BROOKSTONE PURCHASING, INC. (NEW
HAMPSHIRE CORPORATION)
ONE INNOVATION WAY
MERRIMACK, NH 03054

FOR: MASSAGE APPARATUS, IN CLASS 10 (U.S.
CLS. 26, 39 AND 44).

FIRST USE 5-15-2007; IN COMMERCE 5-15-2007.

FOR: HEAD SUPPORTING PILLOWS; PILLOWS,
IN CLASS 20 (U.S. CLS. 2, 13, 22, 25, 32 AND 50).

FIRST USE 6-1-2005; IN COMMERCE 6-1-2005.

FOR: BED BLANKETS; BLANKET THROWS;
PILLOW CASES; PILLOW COVERS; PILLOWCASES,
IN CLASS 24 (U.S. CLS. 42 AND 50).

FIRST USE 8-12-2005; IN COMMERCE 8-12-2005.

FOR: SLIPPERS; SOCKS, IN CLASS 25 (U.S. CLS. 22
AND 39).

FIRST USE 8-22-2005; IN COMMERCE 8-22-2005.

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

SER. NO. 77-490,309, FILED 6-4-2008.

MARIAM MAHMOUDI, EXAMINING ATTORNEY

United States of America

United States Patent and Trademark Office

REVIVE & THRIVE

Reg. No. 4,004,274

Registered Aug. 2, 2011

Int. Cls.: 1 and 31

TRADEMARK

PRINCIPAL REGISTER

2077333 ONTARIO INC. (CANADA CORPORATION)
122 EARL THOMPSON ROAD, UNIT 1
AYR, ONTARIO, CANADA NOB1E0

FOR: COMPOST, IN CLASS 1 (U.S. CLS. 1, 5, 6, 10, 26 AND 46).

FOR: SEEDS FOR HORTICULTURAL PURPOSES, IN CLASS 31 (U.S. CLS. 1 AND 46).

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

PRIORITY CLAIMED UNDER SEC. 44(D) ON CANADA APPLICATION NO. 1449361, FILED 8-25-2009, REG. NO. TMA 791713, DATED 2-28-2011, EXPIRES 2-28-2026.

SER. NO. 77-818,174, FILED 9-2-2009.

ROBERT C. CLARK JR., EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

EXHIBIT K

United States of America

United States Patent and Trademark Office

QUANTUM-REVIVE

Reg. No. 3,823,070

Registered July 20, 2010

Int. Cl.: 1

TRADEMARK

PRINCIPAL REGISTER

SELVIG TREE APPRAISAL, INC. (FLORIDA CORPORATION), DBA APPLIED AND
EXPERIMENTAL MICROBIOLOGY,
SUITE 114
11651 CENTRAL PARKWAY
JACKSONVILLE, FL 32224

FOR: CONSORTIUM OF NATURALLY OCCURRING BENEFICIAL BACTERIA THAT CAN
BE APPLIED TO SEEDS, PLANTS, OR SOIL WHICH IS INTENDED TO IMPROVE GERMIN-
ATION, GROWTH, YIELD, PRODUCT QUALITY, REPRODUCTION, FLAVOR AND OTHER
DESIRABLE CHARACTERISTICS OF PLANTS AND WHICH PROMOTES RETENTION OF
WATER AND NUTRIENTS IN SOILS, IN CLASS 1 (U.S. CLS. 1, 5, 6, 10, 26 AND 46).

FIRST USE 10-23-2009; IN COMMERCE 10-23-2009.

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PAR-
TICULAR FONT, STYLE, SIZE, OR COLOR.

SN 77-795,955, FILED 8-3-2009.

JENNIFER MARTIN, EXAMINING ATTORNEY



David S. Kappas

Director of the United States Patent and Trademark Office

EXHIBIT L

Int. Cl.: 1

Prior U.S. Cls.: 1, 5, 6, 10, 26 and 46

United States Patent and Trademark Office

Reg. No. 3,523,745

Registered Oct. 28, 2008

TRADEMARK
PRINCIPAL REGISTER

REVIVE

JACAM CHEMICAL COMPANY, INC. (KANSAS
CORPORATION)
205 S. BROADWAY
P.O. BOX 96
STERLING, KS 675790096

FOR: CHEMICAL PREPARATIONS FOR THE
TREATMENT OF OIL AND GAS WELLS, NAMELY,
PARAFFIN TREATMENT FLUID, ANTI-SLUDGE
FLUID, ROCK CLEANING FLUID, FORMATION
PERMEABILITY RESTORATION TREATMENT
FLUID, IRON REMOVER FLUID AND FORMA-

TION STABILIZER FLUID, IN CLASS 1 (U.S. CLS. 1,
5, 6, 10, 26 AND 46).

FIRST USE 3-31-2008; IN COMMERCE 3-31-2008.

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

SER. NO. 77-412,681, FILED 3-4-2008.

JILL C. ALT, EXAMINING ATTORNEY

Int. Cl.: 1

Prior U.S. Cls.: 1, 5, 6, 10, 26 and 46

United States Patent and Trademark Office

Reg. No. 3,408,636

Registered Apr. 8, 2008

**TRADEMARK
PRINCIPAL REGISTER**

REVIVE!

PURE POOLS, INC. (FLORIDA CORPORATION),
DBA API
SUITE 14
880 JUPITER PARK DRIVE
JUPITER, FL 33458

THE MARK CONSISTS OF STANDARD CHAR-
ACTERS WITHOUT CLAIM TO ANY PARTICULAR
FONT, STYLE, SIZE, OR COLOR.

FOR: WATER PURIFICATION COMPOUND FOR
POOLS, FOUNTAINS AND SPAS, IN CLASS 1 (U.S.
CLS. 1, 5, 6, 10, 26 AND 46).

SER. NO. 77-243,297, FILED 7-31-2007.

FIRST USE 2-0-2005; IN COMMERCE 2-0-2005.

TRICIA SONNEBORN, EXAMINING ATTORNEY

Int. Cl.: 1

Prior U.S. Cls.: 1, 5, 6, 10, 26 and 46

United States Patent and Trademark Office

Reg. No. 3,196,319

Registered Jan. 9, 2007

**TRADEMARK
PRINCIPAL REGISTER**

GREEN REVIVAL

2077333 ONTARIO INC. (CANADA CORPORATION)

121 EARL THOMPSON ROAD

AYRE, ONTARIO, CANADA N0B 1E0

FOR: LAWN FERTILIZERS, IN CLASS 1 (U.S. CLS. 1, 5, 6, 10, 26 AND 46).

THE MARK CONSISTS OF STANDARD CHARACTERS WITHOUT CLAIM TO ANY PARTICULAR FONT, STYLE, SIZE, OR COLOR.

PRIORITY CLAIMED UNDER SEC. 44(D) ON CANADA APPLICATION NO. 1265908, FILED 7-22-2005, REG. NO. TMA668,350, DATED 7-13-2006, EXPIRES 7-13-2021.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "GREEN", APART FROM THE MARK AS SHOWN.

SER. NO. 78-772,287, FILED 12-13-2005.

REBECCA SMITH, EXAMINING ATTORNEY

Int. Cl.: 17

Prior U.S. Cls.: 1, 5, 12, 13, 35 and 50

Reg. No. 2,363,951

United States Patent and Trademark Office

Registered July 4, 2000

**TRADEMARK
PRINCIPAL REGISTER**

The logo for "ReVived Rubber" features the word "ReVived" in a bold, italicized serif font, followed by "Rubber" in a similar but slightly less bold font. A thick, black, curved line arches over the word "ReVived", starting above the 'R' and ending above the 'd'.

AMERICAN RUBBER TECHNOLOGIES, INC. (FLOR-
IDA CORPORATION)
POST OFFICE BOX 6548
JACKSONVILLE, FL 322366548

FOR: DEVULCANIZED RUBBER PARTICLES
MADE FROM RECYCLED RUBBER SCRAP USED
IN THE MANUFACTURING OF VARIOUS RUBBER
PRODUCTS IN THE AUTOMOTIVE, LANDSCAPING,

ATHLETIC APPAREL, CONSTRUCTION, AND
FLOORING INDUSTRIES, IN CLASS 17 (U.S. CLS.
1, 5, 12, 13, 35 AND 50).

FIRST USE 5-23-1998; IN COMMERCE 5-23-1998.

SER. NO. 75-591,839, FILED 11-19-1998.

SHARI SHEFFIELD, EXAMINING ATTORNEY

Int. Cl.: 1

Prior U.S. Cls.: 1, 5, 6, 10, 26, and 46

Reg. No. 2,274,938

United States Patent and Trademark Office

Registered Aug. 31, 1999

**TRADEMARK
PRINCIPAL REGISTER**

REVIVEX

W. L. GORE & ASSOCIATES, INC. (DELA-
WARE CORPORATION)
555 PAPER MILL ROAD
P.O. BOX 9329
NEWARK, DE 19714

LEATHER, IN CLASS 1 (U.S. CLS. 1, 5, 6, 10, 26
AND 46).

FIRST USE 11-26-1997; IN COMMERCE
11-26-1997.

SN 75-361,526, FILED 9-23-1997.

FOR: WATERPROOFING CHEMICAL COM-
POSITIONS FOR ARTICLES OF FABRIC AND

CAROLINE WOOD, EXAMINING ATTORNEY

Int. Cl.: 1

Prior U.S. Cls.: 1, 5, 6, 10, 26 and 46

United States Patent and Trademark Office

Reg. No. 1,982,538

Registered June 25, 1996

**TRADEMARK
PRINCIPAL REGISTER**

REVIVE

NEOGEN CORPORATION (MICHIGAN CORPORATION)
620 LESHNER PLACE
LANSING, MI 48912

FIRST USE 4-24-1995; IN COMMERCE
4-24-1995.

SER. NO. 74-697,422, FILED 7-5-1995.

FOR: BACTERIAL GROWTH MEDIUM, IN
CLASS 1 (U.S. CLS. 1, 5, 6, 10, 26 AND 46).

CHRIS DONINGER, EXAMINING ATTORNEY

EXHIBIT R

Int. Cl.: 1

Prior U.S. Cl.: 10

United States Patent and Trademark Office

Reg. No. 1,099,098

Registered Aug. 15, 1978

TRADEMARK

Principal Register

REVIVE

American Chemical Works (Colorado corporation), doing business as American Maintenance Equipment and Supply Company
178 S. Kalamath St.
Denver, Colo. 80223

For: SOIL ADDITIVES—NAMELY ORGANIC SOIL BUILDER—in CLASS 1 (U.S. CL. 10).

First use in or about April 1971; in commerce in or about May 1973.

Ser. No. 120,618, filed Mar. 28, 1977.

JOHN C. DEMOS, Supervisory Examiner

D. E. SHALLANT, Examiner